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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES CATHCART, et al.,

Defendants.

Case No. C-07-4762-PJH

**DECLARATION OF TOM
PROUNTZOS IN SUPPORT OF
DEFENDANT ROBERT J. NAGY'S
MOTION TO CONTINUE THE TRIAL
DATE AND ALL ASSOCIATED
DEADLINES**

Date: September 17, 2008

Time: 9:00 a.m.

Dept.: Room 3, 17th Floor

Trial: March 23, 2009

I, TOM PROUNTZOS, hereby declare the following:

1. I am a California resident, am over eighteen years old, am an attorney with Jenkins, Goodman, Neuman & Hamilton, attorneys of record for Defendant ROBERT J. NAGY ("Mr. Nagy"), and am competent to testify to the statements made herein.
2. This Declaration is submitted in support of Mr. Nagy's Motion to Continue the Trial Date and All Associated Deadlines.

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- 1 3. A continuance is necessary in order to allow all parties to properly complete
2 discovery and prepare for trial. Discovery in this matter is more complicated and is
3 taking longer than anticipated by the parties. Discovery has already resulted in
4 voluminous production and more is still expected. For example, Plaintiff UNITED
5 STATES OF AMERICA (“United States”) has produced eleven (11) digital discs
6 containing over 435,000 separate files. Many of these files are multi-page files,
7 including one that is 692 pages long. Additionally, many of these discs were only
8 recently produced. Discs 7 and 8, which were produced in July, together contain
9 more than 100,000 separate files, and Discs 9, 10 and 11, which were produced on
10 August 15, 2008, contain over 85,000 files not including the files contained in Disc
11 10. I am currently unable to open Disc 10 due to a defect in the way the
12 information was saved onto the disc and do not know how many files are contained
13 therein. However, the “properties” for that disc indicate it contains 2.84 GB of
14 information.
- 15 4. Under the current schedule, the parties are unable to meaningfully evaluate these
16 documents and are unable to conduct any necessary follow-up investigation and
17 discovery. Furthermore, the parties require additional time so that they may obtain
18 qualified experts and those experts may review all relevant materials.
- 19 5. All parties, including the United States, agree in principle to a continuance. Most
20 have indicated that they agree to the particulars of this Motion. Counsel for
21 Defendants CHI-HSIU HSIN and OPTECH LIMITED is preparing his own motion
22 for an even longer continuance than the one sought herein and will not stipulate
23 with regard to this Motion on the chance that doing so may prejudice his own
24 motion.
- 25 6. If a continuance is not granted, the parties will not be able to properly prepare for
26

1 trial. On the current schedule, the parties will be cut off from pursuing follow-up
2 discovery after eventually completing review of the produced documents. The
3 parties will be forced to select experts without the benefit of having fully reviewed
4 and analyzed the discovery materials. The experts will have to render opinions
5 based on partial discovery because there will have been no follow-up. The parties
6 will therefore suffer prejudice insofar as their respective trial preparations will be
7 abridged by these circumstances and they will be forced to try this matter with less
8 than full information and preparation.

- 9 7. There have been no previous scheduling modifications in this case. The parties did
10 submit a prior stipulation and proposed order modifying the scheduling order. The
11 Court did not sign this order, however, based on its requirement that dispositive
12 motions be heard at least 120 days before trial. Because the present Motion seeks to
13 continue the trial date and all associated deadlines, if this continuance is granted,
14 the deadline for hearing dispositive motions will still be at least 120 days before
15 trial.
- 16 8. The parties are informed and believe that May 18, 2009 is a date to which the trial
17 may be continued that is convenient for the Court as there is currently only one trial
18 scheduled that week and the United States estimates that trial of the instant case will
19 only last one week.
- 20 9. Continuing the trial date to May 18, 2009 will push the trial back by less than two
21 months. This continuance would involve only a minimal disruption of the case
22 schedule while allowing the parties to properly prepare for trial.
- 23 10. Due to the rapidly approaching trial date and related deadlines, I requested that the
24 other parties stipulate that this motion be heard on shortened notice. All of the other
25 parties have agreed that this Motion may be heard on shortened notice.
26

1 11. I believe that there is good cause for allowing this Motion to be heard on shortened
2 notice. This would allow the parties to better prepare for trial as they will not have
3 to wait as long to learn whether the Court will grant a continuance of the trial date
4 and related deadlines, all of which are rapidly approaching. The parties can then
5 plan their trial preparation accordingly.

6
7 The foregoing is made under penalty of perjury this 3rd day of September 2008.

8 JENKINS GOODMAN NEUMAN
9 & HAMILTON LLP

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11 By: /S/ Tom Prountzos
12 TOM PROUNTZOS
13 Attorneys for ROBERT J. NAGY
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